

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PANAGIOTIS KROKOS and CHARLES
TUTTLE, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

APOLLO MANAGEMENT GROUP, LLC, and
THE FRESH MARKET, INC.,

Defendants.

No. 16 Civ. 12082

**JOINT SUBMISSION OF NOTICE OF COLLECTIVE ACTION
FOR COURT APPROVAL**

Plaintiffs and Defendant jointly submit the attached Notice of Collective Action (Exhibit A), Reminder Postcard (Exhibit B), and Consent to Join form (Exhibit C) pursuant to the parties' stipulation, ECF No. 34 ("Notice Stipulation"), which sets forth the process for notifying potential FLSA opt-ins of their right to join this action. The Parties have reached agreement on the text of all three documents (collectively referred to herein as the "Notice Packet").

Subject to Court Approval, the Notice Packet will be sent to all Assistant Store Managers who worked for Fresh Market between October 18, 2013 and February 10, 2017 whom Fresh Market classified as exempt (the "Collective"). The proposed Notice of Collective Action is "accurate" and "informative," *Hoffmann-La Roche*, 493 U.S. at 172, and consistent with the model notices approved by the Federal Judicial Center.¹ See Exhibit A.

The Reminder Postcard will further ensure that members of the Collective receive timely

¹ See Class Action Notices Page, at: www.fjc.gov (last visited Nov. 12, 2014).

notice of the action. *See* Exhibit B. Courts regularly authorize reminder notices to ensure that workers do not disregard the impending deadline and to increase the odds that workers will be informed of their rights. *See Benedict v. Hewlett-Packard Co.*, No. 13 Civ. 119, 2014 WL 587135, at *14 (N.D. Cal. Feb. 13, 2014) (approving reminder notice); *Morris v. Lettire Constr., Corp.*, 896 F. Supp. 2d 265, 275 (S.D.N.Y. 2012) (“Given that notice under the FLSA is intended to inform as many potential plaintiffs as possible . . . a reminder notice is appropriate.”).

Finally, the Consent to Join form is consistent with the Notice of Collective Action and should also be approved. It informs members of the Collective that they are designating Plaintiffs’ Counsel to represent them, and includes information about the fee and cost arrangement agreed to by the Named Plaintiffs. *See* Exhibit C.

CONCLUSION

For the foregoing reasons, the Parties respectfully request that the Court approve the Parties’ agreed Notice Packet.

Respectfully submitted,

PANAGIOTIS KROKOS and CHARLES
TUTTLE, on behalf of themselves and all others
similarly situated,

By their attorneys,

/s/ Justin M. Swartz

Justin M. Swartz*
Michael J. Scimone*
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, NY 10017
Tel. (212) 245-1000
Fax. (646) 509-2057
jms@outtengolden.com

THE FRESH MARKET, INC.,

By their attorneys,

/s/ Lavinia Weizel

Lavinia Weizel BBO # 688142
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, PC
42nd Floor
One Financial Center
Boston, MA 02111
(617) 542-6000
Fax: 617-542-2241
Email: lmweizel@mintz.com

mscimone@outtengolden.com

Gregg I. Shavitz*
SHAVITZ LAW GROUP, P.A.
1515 S. Federal Highway, Suite 404
Boca Raton, FL 33432
Tel. (561) 447-8888
Fax. (561) 447-8831
gshavitz@shavitzlaw.com

Michael Palitz*
SHAVITZ LAW GROUP, P.A.
830 3rd Avenue, 5th Floor
New York, New York 10022
Tel. (800) 616-4000
mpalitz@shavitzlaw.com

Hillary Schwab, BBO #666029
Brant Casavant, BBO #672614
FAIR WORK, P.C.
192 South Street, Suite 450
Boston, MA 02111
(617) 607-3260
hillary@fairworklaw.com
brant@fairworklaw.com

*admitted *pro hac vice*

Dated: January 27, 2017

Esther G. Lander*
Lawrence D. Levien*
AKIN GUMP STRAUSS HAUER &
FELD LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036
Tel: (202) 887-4535
Fax: (202) 887-4288
elande@akingump.com
llevien@akingump.com

Anastasia M. Kerdock*
AKIN GUMP STRAUSS HAUER &
FELD LLP
One Bryant Park
New York, NY 10036
Tel: (212) 872-1000
Fax: (212) 872-1002
akerdock@akingump.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by filing it through the CM/ECF system, causing it to be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: January 27, 2017

By: /s Justin M. Swartz
Justin M. Swartz (admitted *pro hac vice*)